



Attorney Docket No.: 009103-022800
Client Ref. No.: P0409R

PTO/SB/01A (08-03)

DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

| | |
|--------------------|---|
| Title of Invention | METHOD AND APPARATUS FOR OPTICAL DETECTION OF MIXED VENOUS AND ARTERIAL BLOOD PULSATION IN TISSUE |
|--------------------|---|

As the below named inventor(s), I/we declare that:

This declaration is directed to:

The attached application, or
 Application No. 10/796,584, filed on March 8, 2004,
 as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor 1 Clark R. Baker, Jr. Date: 6/28/04

Signature: *Clark R. Baker, Jr.* Citizen of: United States

Inventor 2 _____ Date: _____

Signature: _____ Citizen of: _____

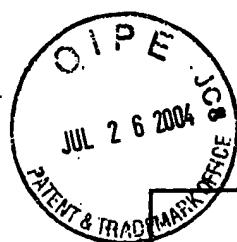
Inventor 3 _____ Date: _____

Signature: _____ Citizen of: _____

Inventor 4 _____ Date: _____

Signature: _____ Citizen of: _____

Additional inventors are being named on additional form(s) attached hereto.



**POWER OF ATTORNEY
and
CORRESPONDENCE ADDRESS
INDICATION FORM**

| | |
|------------------------|--|
| Application Number | 10/796,584 |
| Filing Date | March 8, 2004 |
| First Named Inventor | Baker, Jr., Clark R. |
| Title | METHOD AND APPARATUS FOR OPTICAL DETECTION OF MIXED VENOUS AND ARTERIAL BLOOD PULSATION IN TISSUE |
| Art Unit | 3736 |
| Examiner Name | |
| Attorney Docket Number | 009103-022800 |

I hereby appoint:

Practitioners associated with the Customer Number

20350

OR

Practitioner(s) named below:

| Name | Registration Number |
|------|---------------------|
| | |
| | |
| | |
| | |

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

The address associated with the above-mentioned Customer Number:

OR

The address associated with Customer Number:

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| |
|--|

OR

Firm or
Individual Name

Address

Address

City

State

ZIP

Country

Telephone

Fax

I am the:

Applicant/Inventor.

Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

SIGNATURE of Applicant or Assignee of Record

| | | | |
|--|----------------------|-----------|--------------|
| Name | Beth L. Karpf | | |
| Signature | <i>Beth L. Karpf</i> | | |
| Date | 7-7-04 | Telephone | 925-463-4093 |
| NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*. | | | |
| <input type="checkbox"/> *Total of _____ forms are submitted. | | | |

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Clark R. Baker, Jr.Application No./Patent No.: 10/796,584 Filed/Issue Date: March 8, 2004Entitled: METHOD AND APPARATUS FOR OPTICAL DETECTION OF MIXED VENOUS AND ARTERIAL BLOOD PULSATION IN TISSUENellcor Puritan Bennett Incorporated, a corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. the assignee of the entire right, title, and interest; or
2. an assignee of less than the entire right, title and interest.

The extent (by, percentage) of its ownership interest is %

in the patent application/patent identified above by virtue of either:

A. An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel , Frame , or for which a copy thereof is attached.

OR

B. A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel , Frame , or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel , Frame , or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel , Frame , or for which a copy thereof is attached. Additional documents in the chain of title are listed on a supplemental sheet. Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.8]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

7-7-04
Date
925-463-4093
Telephone number

Beth L. Karpf
Typed or printed name
Beth L. Karpf
Signature
Assistant Secretary
Title

COPY

Attorney Docket No.: 009103-022800
Client Reference No.: P0409R

ASSIGNMENT OF PATENT APPLICATION

SOLE

WHEREAS, Clark R. Baker, Jr. of 18493 Magee Way, Castro Valley, California 94546, hereinafter referred to as "Assignor," is the inventor of the invention described and set forth in the below-identified application for United States Letters Patent:

Title of Invention: **METHOD AND APPARATUS FOR OPTICAL
DETECTION OF MIXED VENOUS AND ARTERIAL
BLOOD PULSATION IN TISSUE**

Filing Date: **March 8, 2004**

Application No.: **10/796,584; and**

WHEREAS, Nellcor Puritan Bennett Incorporated, of 4280 Hacienda Drive, Pleasanton, California 94588, hereinafter referred to as "ASSIGNEE," is desirous of acquiring an interest in the invention and application and in any U.S. Letters Patent and Registrations which may be granted on the same;

For good and valuable consideration, receipt of which is hereby acknowledged by Assignor, Assignor has assigned, and by these presents does assign to Assignee all right, title and interest in and to the invention and application and to all foreign counterparts (including patent, utility model and industrial designs), and in and to any Letters Patent and Registrations which may hereafter be granted on any patent application claiming priority from the same in the United States and all countries throughout the world, and to claim the priority from the application as provided by the Paris Convention. The right, title and interest is to be held and enjoyed by Assignee and Assignee's successors and assigns as fully and exclusively as it would have been held and enjoyed by Assignor had this Assignment not been made, for the full term of any Letters Patent and Registrations which may be granted thereon, or of any division, renewal, continuation in whole or in part, substitution, conversion, reissue, prolongation or extension thereof.

Assignor further agrees that Assignor will, without charge to Assignee, but at Assignee's expense, (a) cooperate with Assignee in the prosecution of U.S. Patent applications and foreign counterparts on the invention and any improvements, (b) execute, verify, acknowledge and deliver all such further papers, including applications and instruments of transfer, and (c) perform such other acts as Assignee lawfully may request to obtain or maintain Letters Patent and Registrations for the invention and improvements in any and all countries, and to vest title thereto in Assignee, or Assignee's successors and assigns.

Assignor hereby authorizes and requests Townsend and Townsend and Crew LLP, Two Embarcadero Center, Eighth Floor, San Francisco, CA 94111-3834, to insert herein above the application number and filing date of said application when known.

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Assignment
Attorney Docket No.: 009103-022800
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IN TESTIMONY WHEREOF, Assignor has signed his/her name on the date indicated.

Dated: 6/28/2004

Clark R. Baker, Jr.

Clark R. Baker, Jr.

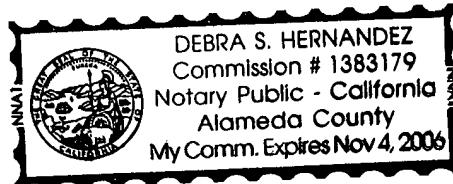
STATE OF California)
)
COUNTY OF Alameda) ss.

On 28 June 2004, before me, Debra S. Hernandez, personally appeared Clark R. Baker, Jr., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Debra S. Hernandez
NOTARY PUBLIC

My Commission Expires: Nov 4, 2006



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